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August 9, 2006

MEMORANDUM TO: CLERKS, UNITED STATES BANKRUPTCY COURTS  
SYSTEMS MANAGERS, UNITED STATES BANKRUPTCY  
COURTS

SUBJECT: Bankruptcy CM/ECF Release 3.1 (**INFORMATION**)

To further awareness regarding Bankruptcy CM/ECF Release 3.1, the Bankruptcy CM/ECF Working Group and the Administrative Office wish to advise you of two new documents which will help users understand the changes which are included in this release. The first document entitled *Release 3.1 Executive Summary* is attached. The Executive Summary details the major functional enhancements included in the release and is designed for judiciary employees. Clerks are encouraged to make this document available to appropriate staff in preparation for installation and conversion to Release 3.1. A separate document, entitled *CM/ECF Release 3.1 Notes for PACER Users*, will be posted to the PACER Service Center web page in September. The purpose of this separate document is to provide the public with a description of changes that they may notice when a court installs Release 3.1.

Bankruptcy CM/ECF Release 3.1 is primarily designed to address the statistical requirements of the Bankruptcy Abuse Prevention and Consumer Protection Act and the Judicial Conference's Committee on the Administration of the Bankruptcy System. The release was just made available to courts yesterday, August 8, for installation in your test database, and has been developed under the Linux operating system. A Solaris version of Release 3.1 will not be developed. As required by the statistical reporting section of the BAPCPA, all bankruptcy courts must be live on Release 3.1 by October 17, 2006.

A handwritten signature in cursive script that reads "Glen K. Palman".

Glen K. Palman

cc: Judges, United States Bankruptcy Courts

## Bankruptcy CM/ECF Release 3.1 Executive Summary

CM/ECF Release 3.1 is designed primarily to transmit additional data about bankruptcy cases and adversary proceedings to the Administrative Office's Statistics Division. A great deal of effort has gone into the design of the system to minimize the impact on day-to-day operations in the courts, while at the same time to meet the requirements imposed on the judiciary by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) and the specifications identified by the Judicial Conference Committee on the Administration of the Bankruptcy System (the "Bankruptcy Committee"). Bankruptcy CM/ECF Release 3.1 will be provided to the courts in early August and it will need to be installed in all courts' live area by October 17, 2006, but not before the clerk's office has transmitted and verified successful processing of its September statistics by the Statistics Division.

The most burdensome changes involved in Release 3.1 are the result of statutory mandates in BAPCPA. Section 601 of BAPCPA amended Chapter 6 of Title 28 by adding §159 which requires the Director of the AO to compile certain statistical information on bankruptcies filed by individual debtors with primarily consumer debts filing under chapters 7, 11 and 13, make such data available to the public, and publish a report on that compilation by July 1, 2008 and annually thereafter. The data required to be collected by 28 U.S.C. § 159 includes (by chapter, except where noted):

- a) total assets and liabilities and categories thereof;
- b) monthly income (current and average) and monthly expenses;
- c) debt discharged (as defined by the statute);
- d) average time from filing to "closing of the case;"
- e) for cases closed during the period, statistics regarding the number of cases with reaffirmation agreements and the numbers of reaffirmation agreements, pro se reaffirmation agreements, and court approvals of reaffirmation agreements;
- f) for chapter 13s, the number of orders entered determining the value of a claim and the number of cases in which an order was entered valuing property securing a claim at less than the amount of the claim;
- g) the number of 13s dismissed, dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, itemized by the number of plan modifications;
- h) the number of cases in which a 13 debtor filed another case during the 6-year period preceding the filing;

- i) the number of cases in which creditors were fined for misconduct and the amount of punitive damages awarded;
- j) the number of cases in which sanctions or damages were awarded.

In addition to these requirements, Release 3.1 will also implement a number of improvements in the data transmitted to the AO regarding bankruptcy cases and adversary proceedings that have been reviewed and approved by the Bankruptcy Committee.

Most of the additional data to be extracted are already in the system, and the major focus of the Release 3.1 coding was simply to capture the data already there. The collection of information related to motions practice at the local level will ordinarily not involve much change to normal procedures. The vast majority of motions for which data are to be reported are already present in the starter dictionary. For those motions that have not been implemented at the local court level, CM/ECF Release 3.1 will require additional dictionary entries. To the end user, however, the primary change will be additional specificity with respect to the items on pick-lists associated with filings of motions, applications, and notices.

For the additional data required by the passage of BAPCPA, more significant changes in procedures will be noticeable. First and foremost, case opening will include information entered from the schedules of assets, liabilities, income and expenses. Of course, attorney filers will continue to use petition preparation software (updated for Release 3.1) and the CM/ECF case upload module to quickly open cases.

The following are the most prominent areas, listed in no particular order, included in Release 3.1:

- 1) **Map Dictionary Events** (Statistical Configuration Utility) - This new utility is used to map each court's CM/ECF dictionary events to one of the standard categories of events that are defined and tracked by the Statistics Division. Using the new utility program to map the court's dictionary events is generally a one-time per event task; however learning the program and understanding its proper usage by the clerk's office is a major undertaking requiring a special on-site class at SDSD and follow-up communication and testing. By mapping events in the background, courts can continue to use their unique event names, but the event will now reflect a code for the Statistics Division tracking and thus is reported as part of the monthly transmission to the Statistics Division.
- 2) **Case Opening Statistical Changes** - CM/ECF has been changed for both bankruptcy and adversary case openings to reflect statistical information changes that have been made to the petition and schedules. For example, a "Nature of Business" label has been added above the list of business types; an "Other" business type has been added; the checkboxes for types of business have been replaced by radio buttons; the "Nonprofit Organization" checkbox has been renamed "Tax-Exempt Entity", and can be selected in conjunction with any type of business. Also, new defaults and cross-checks have been added to CM/ECF ensure the consistency of the data. For example, defaults for nature of debt, estimated creditors, estimated assets, and estimated debts are now blank and values

must either be selected or left blank. The values in the estimated assets and estimated debts field have changed. There is a new field to indicate whether there has been a prior filing within the last 8 years. For Chapters 11, 12, and 13, the asset field is defaulted to yes while for Chapters 9 and 15, the asset field will be blank. For Chapter 7 cases, the asset field is defaulted to no. For Chapter 11 cases, there are new check boxes to indicate whether the plan is being filed with the petition and whether acceptance of the plan was solicited pre-petition. For the initial case opening screen for Chapter 15 cases, the user must select whether the case is a main or non-main proceeding. Also, a new “SumSchTotal” DPF can be used in lead events to display a screen for the entry of items from the Summary of Schedules. The statistics screen for adversary cases (showapsard DPF) has been changed: the y/n item “State law” has been added and a 3<sup>rd</sup>/4<sup>th</sup>/5<sup>th</sup> natures of suit have been added; “Secondary nature of suit” label changed to “Second nature of suit”. The nature of suit codes have changed. There are new values in the origin field. There is a new mandatory role in bankruptcy case field in the plaintiff and defendant party record.

- 3) **Case Closing Statistical Changes** - Case closing screens for both bankruptcy and adversary cases have been changed to collect more data. Professional fees and expenses, and other changes have been made to improve accuracy of reported data. Also, an error has been corrected so that it is no longer necessary to enter a decimal point in the distribution fields to make the total distribution field calculate an accurate amount. There are new bankruptcy disposition code values. There are new adversary disposition code values. The field Date at Issue will be renamed Date of Summons Issued.
- 4) **Case Upload** - With Release 3.0, the Case Upload Module was incorporated into the nationally supported CM/ECF product. The format of the statistics record has changed in 3.1 to include the new case opening fields and additional edit checks will be made. Information on 3.1 case upload changes was shared with all bankruptcy petition software companies in mid-July. **Attorneys must upgrade their petition preparation software at the same time the court upgrades to Release 3.1.** Attorneys attempting to open a case using a pre-Release 3.1 version of their petition preparation software will receive a CM/ECF error message that their case upload file is rejected due to using an older version. Likewise, if an attorney upgrades their petition preparation software to be compatible with CM/ECF Release 3.1, but the court has not yet upgraded to Release 3.1, the attorney will receive an error message.
- 5) **Statistics Division Reports** - The “Create SD Reports” screen contains new selection criteria and data for contested matters is picked up from new site and code table entries. The B100 and B101 reports have been corrected when a “last extract date” was specified. Also errors reported as MRs 669, 1043, 1071, 1385 and 1641 in the statistics division reports are corrected.
- 6) **Transfer of Claim Notice** - The new *Notice of Transfer of Claim Other than For Security* (Form 210B) will be supported in 3.1 by CM/ECF and the BNC. The form is stored at the BNC and the BNC merges the CM/ECF recipient information so that the original claim owner is notified with case specific information when a claim is

transferred.

- 7) **Easy-Fix Code Corrections** - Twenty four MRs designated as “easy-fix” code changes are included in the release. These code changes are typically small one or two line changes that most courts’ systems staff make manually each time a new release comes out, unless fixed in a national release like the 24 are here.
- 8) **Public Access Enhancements** - Based on prioritized requests from the EPA Program Office, enhancements are included for several public access functions. For example: previously, any recipient of an NEF was allowed one view of referenced documents without incurring PACER charges. Now, only participants in the case (parties and attorneys) are given a “free look” while others will be billed. A new Court Information utility will provide some general court information for users, especially filing attorneys and PACER users, such as the maximum size of PDF files and the court’s phone number. The login screen presented to outside users has been changed to emphasize the differences between CM/ECF and PACER logins. Also, at the PACER Service Center Web Site users will be able to 1) require/not require a client code; 2) define the format of the client code; and 3) show or suppress the display of the billing summary or receipt after each billable transaction. To improve security and provide other benefits, PACER passwords will now be verified on the PACER Service Center computers rather than at each court.
- 9) **Emergency Software Releases (ESR)** - In case any court missed installing an ESR patch, and to provide a comprehensive update, all three previously issued ESR software patch releases are included in the 3.1 release. The three ESR software patches issued for Release 3.0 addressed: 1) a method to identify and regenerate any missing Notice of Electronic Filing e-mails (batch NEFs were never missing); 2) error generated if a user’s CM/ECF password contained a tilde; and 3) improved security for PACER billing.
- 10) **Additional Significant Changes**
  - Creditor Maintenance/Upload a Creditor Matrix File - Additional checks are now being made to prevent bad data from being uploaded.
  - Copy Case Utility - To improve statistical reporting, this utility now records the related case number in the original and new case.
  - Edit Case Data/Edit Statistical Data - For bankruptcy cases, fields have been added for the new items that are required by the Bankruptcy Reform Act, including “Prior filing within last 8 years”. This screen also displays professional fees and expenses that were awarded.
  - Document Links - In various parts of the application, clicking on a document link displayed the wrong document or no document. This has been corrected.
  - Automatic Docketing Interface (ADI) - The ADI was enhanced to support new XML tags for Chapter 15 cases, add or modify parties and to report professional fees and expenses at case closing.

## **Training and Implementation**

Bankruptcy CM/ECF Release 3.1 software and Release Notes documentation was made available to the courts on August 8. Courts have identified staff that will be attending the SDSD CM/ECF 3.1 training class. Detailed software design documents have been posted to the CM/ECF Working Group J-Net page, including Release 3.1 Upgrade Information that will assist courts as they prepare for this release.

The SDSD Training Branch has also posted a list of new suggested “starter” dictionary events to be used as is, or to serve as a model. Included in the starter dictionary is the recommended limited access filing capability events for the U.S. Trustee auditors as required by BAPCPA.

In order to collect the BAPCPA statistics on the effective date, all bankruptcy courts should “go live” on CM/ECF 3.1 by October 17, 2006, but not before the clerk’s office has transmitted and verified successful processing of its September statistics by the Statistics Division.